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B I M L.

An Act to define Seigniorial Rights in Lower Canada, and to facilitate the redemption thereof.

(Reprinted as amended.)

(1000 Copies.)

HON. MR. ATTORNEY GENERAL DRUMMOND.

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An Act to define Seigniorial Rights in Lower Canada,
and to facilitate the redemption thereof.

WHEREAS it would be advantageous to facilitate the commutation of the tenure of lands held *en roture* in the several Seigniories of Lower Canada, by more ample and effectual Legislative provisions than are now in force; and whereas considerable time must necessarily elapse before the tenure of all such lands can be commuted, and it would therefore be just and advantageous to define the Seigniorial Rights to which such lands will, in future, be subject, and to restore, in as far as circumstances will allow, all such legal remedies as the *censitaire* formerly possessed against all encroachment or exaction on the part of the Seignior as well as those of which the Seignior could avail himself for the maintenance of his rights: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier*, and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Act passed in the eighth year of Her Majesty's Reign, and intituled, 'An Act the better to facilitate optional commutation of the tenure of lands en roture in the Seigniories and Fiefs in Lower Canada, into that of franc-aleu roturier,'* shall be, and they are hereby repealed.

CONCESSION OF LANDS.

II. That from and after the passing of this Act, all and every the judicial powers and authority vested in and granted to the Governor and the Intendant of New France or Canada, by the Arrêts of His Most Christian Majesty the King of France, dated at Marly, the sixth day of July, one thousand seven hundred and eleven, in relation to lands in New France or Canada aforesaid, conceded in Seigniories, and by any other laws in force in Canada at the time of the cession of the Country to Great Britain, shall and may be exercised by the Superior Court of

Lower-Canada, and by the Judges of the said Court, or by the Circuit Courts, due regard being had to the extensions, restrictions and modifications of the said judicial powers and authority made by this Act.

III. And in order to facilitate the exercise of the said judicial powers and authority—Be it enacted, That no Seigneur shall hereafter concede to any one individual any extent of wild land, exceeding one hundred and twenty superficial arpents, otherwise than by two or more separate deeds of concession, bearing date at least two years from each other, or unless the excess over the said quantity of one hundred and twenty arpents be conceded to the father or tutor for the use of one or more minor children; and in the latter case, the extent of land conceded for each such minor shall not exceed one hundred and twenty superficial arpents, and the minor in favor of whom each such concession shall be made, shall be named in the deed of concession, and the father or tutor to whom any such concession shall be made, shall become personally bound to the Seigneur as guaranteeing the performance of the conditions of the deed.

IV. No Seigneur shall hereafter concede any wild land, of a less extent than forty superficial arpents, unless such concession be made for a town or village lot, or a site for building a mill or other manufacturing establishment (*autre usine*), or unless the said land be so circumscribed or situate as to prevent its being otherwise conceded than in a less quantity than forty superficial arpents.

V. No Seigneur shall establish by any Deed or Contract of Concession, on any wild lands which shall hereafter be conceded, any rights, charges, conditions or reservations other than those of having the land surveyed and bounded at the expense of the *concessionnaire*,—of clearing and bringing into a state of cultivation at least five arpents in superficies of the land conceded, within five years from the date of the Deed of Concession, and of payment by the *concessionnaire* of an annual rent not exceeding in any case the sum of Three Pence and One Half Penny currency for every superficial arpent of land conceded, and no land so conceded shall be sold until a portion thereof, at least five arpents in superficies, shall have been cleared and brought into a state of cultivation, failing which any such sale shall be null and void, unless it be stipulated in the Deed of Concession that the land may be reserved as wood land.

VI. All such concessions shall be made in the terms of the Form A annexed to this Act, or in terms of like import, and shall have the effect *ipso facto* of changing the tenure of the land therein mentioned into *franc-aleu roturier*, and of freeing it for ever from all Seigniorial rights and all other charges,

except that of surveying and clearing, and paying the annual rent mentioned in the section immediately preceding this section; which said rent shall be considered, for all legal purposes, as a constituted rent (*rente constituée*) redeemable at any time, and carrying with it the privileges of *baillieur du fonds*.

VII. All sales, concessions, agreements or stipulations hereafter made, contrary to the preceding provisions, shall be null and of none effect.

VIII. Every Seigneur who shall receive, directly or indirectly, any sum of money or any other valuable thing as and for the price or consideration of the concession of a quantity of wild and unimproved land, over and above the annual rents and dues, or over and above the capital they represent, shall repay such surplus to the party who shall have so paid or given the same, or to his representatives; and any person who shall so pay or give any sum of money or any other valuable thing, shall have an action for the recovery thereof with costs in any Court of competent jurisdiction; and in any action brought under the provisions of this section, proof by witnesses, (even by relatives within the degrees prohibited in other matters,) and by the answers of the party on *faits et articles*, shall be received, as well as evidence in writing.

IX. Every Seigneur who possesses within his *censive* any wild lands, shall be entitled to dismember from such wild lands and to reserve for his own private use, without being obliged to concede any part thereof, a domain which shall not consist of more than two hundred and fifty superficial arpents, if the *censive* is less than two square leagues in extent, of not more than five hundred arpents, if the *censive* is more than two square leagues but less than three square leagues in extent, and of not more than one thousand arpents, if the *censive* is more than three square leagues and less than six square leagues in extent, and of not more than fifteen hundred arpents, if the *censive* is more than six square leagues in extent; Provided always, that Seigniors who have already domains within their *censives*, intended for their private use, of the extent so allowed to be reserved, shall not have the right of reserving for such use any part of the wild and unconceded lands in the same *censive*; and that Seigniors whose domains, already reserved for their private use, are under the said extent, shall have the right to reserve only so much of the wild lands in the said *censive* as will complete the said extent; And provided also, that the Seigneur shall take all such lands for such domain, in one lot, except in Seignories in which at least one third of the lands are still uncultivated, in which case it shall be lawful for him to take one or several parts of such domain separately, but not at a less distance than one league and a half from each other, and in Seignories in which there is not a sufficient extent of wild lands bordering on the domain already reserved for the use of

Three square leagues or
Three leagues square

the Seignior, if such domain be less than the extent to which he is entitled, he may complete the quantity from any other part of his Seignior in which there are yet wild and unconceded lands.

X. Any person, who, after the passing of this Act, shall have called upon the Seignior of any Seigniorly whatsoever to concede to him or to his minor child or ward, a lot of land forming part of the wild and unconceded lands of such Seigniorly, may, if the Seignior so called upon refuse or neglect to concede such lot of land, summon and sue such Seignior by action or *demande* in the form of a declaratory petition (*requête libellée*) in the Superior Court sitting in the district, or in the Circuit Court sitting in the Circuit in which such lot of land is situate, for the purpose of obliging such Seignior to concede the same.

XI. Whenever the Seignior shall have no domicile in the Seigniorly in which such concession is demanded, the Writ of Summons and the petition thereunto annexed shall be served upon his agent, or upon the person charged with the collection of the rents of the said Seignior; and if there be no such agent or no such person having his domicile in the Seigniorly, the service of the Writ of Summons and of the petition thereunto annexed shall be made by posting on the door of the place appointed for the receipt of the seigniorial rents, for the year next preceding such service, a duly certified copy of such Writ of Summons and of the petition thereunto annexed; And whenever a concession shall be demanded in a Seigniorly in which the Seignior shall have no domicile, nor resident agent, or in which he shall not have publicly established a place for the receipt of the rents, service of the action or *demande* shall be made by posting a copy of the Writ of Summons and of the petition thereunto annexed at the door of the Church, or if there be no Church, then in one of the most frequented places of the Parish or settlement in which the land, the concession whereof is demanded, shall be situate.

XII. The concession of a lot of land in any Seigniorly held by several co-proprietors, may be demanded of any one of them, and any co-proprietor so called upon to make such concession, shall be bound to make the same as well in his own name as in that of his co-proprietors; and all Seigniors co-proprietors shall be bound to all intents and purposes by any concession made by any one of them, as well as by any judgment rendered in any action brought against any one of them for the purpose of obliging them to make such concession.

XIII. In every such action the said Court shall condemn the Seignior so sued to give a Deed of Concession of the lot of land so demanded, in favor of the Plaintiff, on the conditions and in the manner prescribed by this Act, within such delay as

shall be appointed by such Court, unless the Seigneur so sued, shall show that the lot of land so demanded as a concession forms part of the lands reserved by him, under the sanction of the law, as a domain for his own use, or that he is not by law obliged to make such concession; and in any case in which it shall be more in accordance with equity to order that a lot of land other than the one demanded, be conceded to the Plaintiff, it shall be lawful for the said Court so to do; and whenever the Seigneur shall, after the expiration of the delay allowed, have neglected to grant a Concession Deed in favour of the Plaintiff, such judgment shall to all intents and purposes be for the said Plaintiff in the place of a Concession Deed of the lot of land designated therein, on the conditions therein specified.

15 XIV. Whenever it shall appear to the said Court that the lot of land, so demanded as a concession, is not susceptible of cultivation, or forms part of a mountain, hill, rock or other land, which it might be necessary or advantageous to reserve for the making of maple sugar, either for the use of those who shall have acquired that right under agreement with the Seigneur, or for the use of the censitaires of such Seignior generally, or for any other object of public usefulness in such Seignior, it shall be lawful for the said Court to reject such demand.

XV. In all such demands, the exception based upon the allegation that the lot so demanded forms part of the lands reserved by the Seigneur as a domain for his private use, shall be rejected on uncontradicted proof by two credible witnesses, that the Seigneur, or his agent, has, before the filing of such demand, refused to point out to the Plaintiff the situation and extent of lands so reserved by him, or that he has pointed out, as forming such domain, lands in which the lot, demanded as a concession, was not comprised.

XVI. Every Judgment rendered upon a demand for a concession by the Superior Court, shall be final and without appeal; but an appeal shall lie to the Superior Court sitting in the District, from any judgment rendered on any such demand by a Circuit Court, provided the party appealing shall observe the formalities by law prescribed with respect to appeals from the Circuit Court to the said Superior Court, and the costs in any such action before the Superior Court shall be taxed as in a personal action under One Hundred Pounds currency.

REUNION TO THE DOMAIN.

XVII. And in order to facilitate the reunion to the domain of certain lands, in the cases provided for by law, and to render such reunion less expensive to the Seigniors and to the Censitaires—Be it enacted, That any Seigneur may, by one and the same action or demande, in the form of a de-

claratory petition, (*requête libellée*), sue and summon before the Superior Court, sitting in the District in which such seigniority or the greater part of such Seigniority is situate, any number of persons holding lands in the said Seigniority, conceded before the passing of this Act, on the condition of settling the same and of keeping hearth and home thereupon, who shall have failed to perform any one of the said conditions, or who shall have allowed the said lands to remain waste and uncultivated during more than two years, and to demand, in and by such action, the reunion to the domain of such Seigniority, within such reasonable delay as shall be ordered by the Court, of all the lots of land, in respect of which such condition or conditions shall not have been fulfilled, or which shall have so been allowed to remain waste; and it shall be lawful for the said Court to proceed and to give such judgment in the action as to law and justice shall appertain, with regard to the reunion of all such lots of land to the domain of the Seigniority in which they are situate.

XVIII. In every such action, the Writ of Summons and the petition thereunto annexed, shall be served upon each of the 20 *concessionnaires* or tenants of the lands the reunion whereof to the domain shall be demanded in and by such petition, by leaving with each of them individually, or at the domicile of each of them in the limits of the Seigniority in which such lands shall be situate, a duly certified copy of such Writ of Summons and of the petition thereunto annexed; or in case such *concessionnaires* or tenants shall have no known domicile within the limits of such Seigniority, by posting such duly certified copy, on or near the principal entrance door of the church of the parish in which the said lands are situate; and if there be no church, then in the most conspicuous part of such lands. 30

XIX. Whenever the said Court shall be of opinion, that the lands the reunion whereof to the domain of the Seigniority in which they are situate, is demanded, ought to be so reunited, it shall be the duty of such Court, to order, by an interlocutory judgment, that on a day which shall be at least six months from the date of the said judgment, the said lands shall be so reunited to the domain, unless some party interested shall then shew to the satisfaction of the said Court, that the reunion of such lands, or any part thereof, ought not to take place: and it shall be lawful for every person so sued to prevent the reunion of his land to the domain, by proving that he has, within the delay allowed by such interlocutory judgment, fulfilled the conditions of his Deed of Concession, without however being thereby exonerated from his share of the costs incurred in the action, which said costs shall be taxed as in a personal action under One Hundred Pounds currency. 40

XX. A copy of every such judgment so rendered shall be published in the English and French languages, in at least 45

one newspaper published in the district in which such lands are situate, or if there be none published in the district, then in at least one newspaper published in an adjoining district, at least three times during the period which shall intervene between the date of the said judgment and of the day fixed therein for the reunion of such lands to the Seigniorial domain; and such publications shall not be made at an interval of less than four weeks, nor more than six weeks from each other; and every such judgment shall also be publicly and audibly read in both the said languages at the door of the church of the parish or settlement in which the lands are situate, on the two Sundays immediately preceding the day fixed for the reunion of the said lands; and when there shall be no church, a copy of the judgment, in both the said languages, shall be posted at one of the most frequented places of such parish or settlement, at least fifteen days before the day fixed as aforesaid.

XXI. All persons or Corporations who may have any privileges or hypothecs, usufructuary rights or servitudes whatsoever on the lands in respect of which such judgment shall be so rendered, or on any part thereof, shall file their oppositions containing the usual election of domicile, in the office of the Prothonotary of the District in which such judgment shall be rendered, at least eight days before the day fixed for such reunion, in default whereof such usufructuary rights, servitudes, privileges and hypothecs, in so far as they may affect such lands, shall be extinguished.

XXII. All minors, interdicted persons, absentees, *femes-covert*, even in respect of dower not yet open, (*non encore ouvert*) shall be also required, for the preservation of their rights, to file their oppositions to the reunion of the lands affected by such rights, in the manner and within the period above specified; and in default thereof, such rights shall be extinguished in so far as they may affect such lands; but the tutors, curators and husbands who shall have neglected to file such oppositions shall, nevertheless, continue to be responsible towards the persons under their charge or authority, for any loss which may result from their negligence in the said behalf.

XXIII. On the day fixed by such interlocutory judgment, or on any other subsequent juridical day, the Court shall proceed to order the reunion to the domain of the Seignior in which they are situate, of such lands as ought, according to law, to be so reunited, and to the reunion whereof no opposition shall have been made, and to declare the *Censitaires* who took them *à titre de concession*, or who previously held them, to be forever deprived of all rights of property therein.

XXIV. In any case in which the Court shall maintain any one or more of the oppositions made to the reunion to the

domain of the lands the reunion whereof is so demanded, it shall be the duty of the said Court to order the Sheriff of the District to proceed to the sale of the lands, or of such of the lands the reunion whereof to the domain is so opposed, subject to such charges or servitudes as may have been established by such 5 oppositions.

XXV. The Sheriff shall proceed to the sale of any land the sale whereof shall be so ordered, after having three times advertised in the English and French languages in the *Canada Gazette* or other newspaper recognized as the Official Gazette 10 of the Province, and in at least one other newspaper published in the District wherein such land shall be situate, or if there be no newspaper published in such District, then in at least one other newspaper published in one of the neighbouring Districts the place at which, and the day and hour when such sale will 15 take place; and no such sale shall take place at an earlier period than fifteen days from the first advertisement, nor elsewhere than at the door of the Church of the Parish or settlement in which such land shall be situate, or such other public place in the same Parish or settlement as shall have been 20 mentioned in the advertisements, if there be no Church therein.

XXVI. The Sheriff shall make a return of his proceedings upon the judgment ordering the said sale, within fifteen days from the date of the sale, or, if possible, at an earlier day.

XXVII. The Seignior, plaintiff in the cause, may file in the 25 office of the said Prothonotary, at any time between the date of the judgment ordering such sale and the expiration of the two days immediately following the return made by the Sheriff of his proceedings thereon, an opposition *afin de conserver*, in order to obtain payment of the arrears due to him upon any 30 land so sold.

XXVIII. The said Seignior and the other privileged opposants, if any there be, shall be the first paid out of the amount arising from such sale, according to the preference of their respective privileges; the hypothecary 35 creditors shall be collocated according to the order and rank of their respective privileges, and the remainder of the amount arising from the sale shall be distributed among the opposing creditors claiming for chirographical debts, at so much in the pound, or according to the 40 preference of the privileges they may be entitled to.

XXIX. Nothing in this Act or in any other law contained, shall be interpreted so as to give to any Seignior the right of demanding the reunion to his domain, of any town or village lot or emplacement, nor of any land 45

settled and cultivated or reserved in good faith and used for cutting fire wood thereon for the use of the proprietor and of his family, although the proprietor should not keep hearth and home thereon.

- 5 XXX. Every lot of land so re-united to the domain shall be conceded by the Seigneur, or on his refusal, by authority of justice, on the same terms and conditions, in the same manner and under the same tenure as wild lands; except that it shall be lawful for the Seigneur to require from the new grantee the payment of all arrears of Seigniorial Rights due on such land up to the period of its re-union to the domain, with all the costs incurred in respect of such re-union, and interest on such costs at six per cent. per annum from the date of the payment thereof by the Seigneur.

DEFINITION OF SEIGNIORIAL RIGHTS.

MILLS, WATER POWERS AND BANALITY.

- XXXI. And whereas since the said cession of the Country, divers Seigniors, Proprietors of Fiefs in Lower-Canada, have imposed on lands conceded by them rents exceeding those at which such lands ought to have been conceded according to the ancient Laws of the Country, and have burthened the said lands with various reserves, charges and conditions which impede industry, delay the settlement of the Country and check the progress of its inhabitants; and whereas it is just to remedy such abuses—Be it enacted, That no Seigneur shall hereafter be entitled to any right in or upon the waters of any river, lakes, pond or stream, other than the right of the riparian owner upon the waters which flow through or by or be within the lands of which he is the proprietor in possession of the right of soil (*domaine utile*) thereof; and any agreement made between the Seigneur and the proprietor who has or who had at the time of such agreement, the *domaine utile* of any land held by him *à titre de cens* in any Seigniorly whatsoever, with the view of depriving proprietor of the right of building mills, whether grist or saw mills, or other manufacturing establishments (*autres usines*), is hereby declared to be null; and every such agreement shall, to all intents and purposes, be hereafter considered as not having taken place, whether the same be stipulated hereafter, or made before the passing of this Act.

XXXII. The right of the Seigneur to require the *censitaire* to carry his grain to the Seigniorial (*banal*) mill to be there ground, on paying to the Seigneur the ordinary toll for the grinding of such grain, shall hereafter be considered as applying to no other grain than such as is grown on the lands held à titre de *cens* in the Seignior in which such *banal* mill is situate, and is intended for the use of the family or families occupying the said lands. 5

XXXIII. Every Seigneur having more than one hundred *censitaires* holding lands in his *censive*, and who, after the expiration of two years from the passing of this Act, shall not have constructed at least one *banal* mill for the grinding of the grain in his Seignior, and every Seigneur who, after the expiration of two years from the period in which there shall be more than one hundred *censitaires* holding and settled upon lands in his *censive*, shall not have constructed such mill, after having been thereunto required according to law, six months previously shall, as well as his heirs and representatives for ever, forfeit his right of banality in such Seignior; and it shall be lawful for any person to construct one or more mills for the grinding of grain in the said Seignior, and to grind or cause to be ground in any such mill all grain brought thereto, without being liable to be disturbed by the Seigneur as such, in the enjoyment of the said rights; but no such person shall be entitled to exercise the right of banality with respect to any mill so constructed. 15 20 25

XXXIV. And whenever a *banal* mill shall not be in proper order, or shall be insufficient for the grinding of the grain belonging to the *censitaires* of the Seignior, or of the part of the Seignior in which it is situate, any *censitaire* settled upon any land in such Seignior shall be entitled to sue the Seigneur of such Seignior before the Superior Court sitting in the District in which such mill is situate, for the purpose of obliging him to repair such mill, or to place it in such a state as will make it sufficient for the wants of the *censitaires*; and it shall be lawful for the said Court, to proceed and give such judgment in every such action, as to law and justice shall appertain. 30 35 40

XXXV. And whenever the Seigneur shall take an emplacement from any other property within his *censive* than that whereof he has the *domaine utile*, for the

purpose of constructing thereon a *banal* mill, he shall commence to construct the same within six months, and complete the same within two years from the date of his taking possession of the said land; in default whereof the *censitaire* shall re-enter into possession as proprietor of the said emplacement on reimbursing to the Seigneur the sum received by him therefor; and the value of the improvements made thereupon by the Seigneur.

HONORARY RIGHTS, PRE-EMPTION (*RETRAIT*), RENTS,
HYPOTHECARY PRIVILEGES.

XXXVI. No Seigneur shall hereafter be entitled to any honorary distinction or privilege of a purely personal nature, arising out of his quality of Seigneur.

XXXVII. No Seigneur shall hereafter exercise the conventional right of pre-emption (*retrait*); but in cases of fraud, the Seigneur may refuse to grant *seizin* of the deed of purchase, and may sue for *lots et ventes* and recover in proportion to the price proved to have been really paid or stipulated; and in any action brought under the provisions of this section, proof by witnesses (even by relations within the degrees prohibited in other matters) and by the answers of the parties on *faits et articles*, shall be received as well as evidence in writing.

XXXVIII. No *censitaire* or occupier of land in any Seigniority conceded before the passing of this Act, except building lots in a Town or Village, and land situate in the *banlieue* of any Town or City, shall be required to pay as an annual seigniorial rent, to fall due hereafter, any sum of money or other value exceeding the sum of two pence currency for each superficial arpent of the land occupied by him à *titre de cens*, notwithstanding any stipulation to the contrary made by himself or by his predecessors.

XXXIX. All Seigniorial dues payable annually in personal labour (*corvées*), grain, or otherwise than in money, shall hereafter be paid in money, at the price at which the same shall be worth at the time the said rents shall fall due, and shall be reduced to two pence currency for each superficial arpent of the land upon which the same shall be charged, in the same manner as rents payable in money.

XL. No sale under writ of execution, (*par décret*) shall have the effect of liberating any immoveable property held *à titre de cens*, and so sold, from any of the rights, charges, conditions or reservations established in respect of such immoveable property in favor of the Seignior, but every such immoveable property shall be considered as having been sold, subject hereafter to all such rights, charges, conditions or reservations, except in so far as they may exceed those allowed by this Act, without its being necessary for the Seignior to make an opposition for the said purpose before the sale. 10

XLI. If, notwithstanding the provisions of this Act, any opposition *afin de charge* be made hereafter for the preservation of any of the rights, charges, conditions or reservations mentioned in the next preceding section of this Act, such opposition shall not have the effect of staying the sale, and the Opposant shall not be entitled to any costs thereon, but it shall be returned into Court by the Sheriff after the sale, to be dealt with as to justice may appertain. 20

XLII. The privileges and preferences granted by law to Seigniors, to secure to them the payment of the Seigniorial rights which shall hereafter become due, shall only be exercised for arrears which shall have fallen due during the five years next preceding the exercise of such privileges and preferences. 25

XLIII. All stipulations in any deed of concession, new title deed or recognizance (*titre-nouvel ou reconnaissant*) made before the passing of this Act, in so far as such stipulations tend to establish in favor of the Seignior upon any land conceded *à titre de cens*, with the exception of land conceded as a town or village lot, or situate in the *banlieue* of any town or city, any rights, charges, conditions or reservations other than or exceeding the following, are, with respect to such excess or difference, hereby declared null and void, namely: 35

1. The obligation to keep hearth and home on the land conceded.
2. That of surveying and bounding the land conceded, at the expense of the *concessionnaire*.
3. That of paying the rent stipulated in the deed of concession, provided it do not exceed the sum of two 40

pence currency for each arpent in superficies of the land conceded, and in the event of the said rent exceeding that rate, the stipulation shall be reduced to the said sum of two pence, and shall be null as regards the excess, in respect of any rent thereafter to fall due.

4. That of exhibiting deeds of acquisition within twenty days after the passing of the deed, and paying mutation fines (*lods et ventes*), according to law.

5. That of grinding at the Banal Mill the grain grown on the conceded land, and intended for the use of the family or families occupying the same.

6. The right of the Seigneur to take in any part of his censive, and as often as the case may happen, a parcel of land for the construction of a Banal Mill and its dependencies, not exceeding six superficial arpents, on payment by him to the proprietor of the value of the land and improvements made thereon.

COMMUTATION OF LANDS HELD *EN ROTURE*.

XLIV. And be it enacted, That it shall be lawful for the owner of any land held *en roture* in Lower Canada, to free the said land from all Seigniorial rights recognized by this Act to be redeemable (*rachetables*) as being due or payable to the Seigneur, proprietor of the Seigniority in which such land is situate, on paying the price of the redemption (*rachat*) of such rights, as hereinafter provided.

XLV. The only Seigniorial rights and dues on which a money value can be set, and recognized by this Act to be redeemable as such, are the following:

1. All fixed rights, that is to say: all annual Seigniorial rents, (*redevances*) consisting in money, grain, fowls, provisions or fruits of the earth, or in personal labour (*corvées*), payable under the name of Seigniorial *cens et rentes*, or under any other name whatsoever, which are only payable or due by the owner or holder of the land so long as he is the owner or holder thereof, and according to the length of time during which he is in possession, and the right of banality of mills for the grinding of grain therein.

2. All casual rights, which are due under the name of *lods et ventes*, or of any other designation whatsoever, upon mutations in the property or in the possession of any land.

XLVI. It shall be lawful for the Governor to appoint three persons to be Commissioners under this Act, in each of the judicial Districts in Lower Canada, in which there are Seigniories, and from time to time to remove them, and to appoint others in the place of any so removed, or dying or resigning office; and that each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before a Justice of the Peace, the following oath:

"I, _____, swear that I will faithfully and without partiality, fear, favor or affection, perform my duty as Commissioner under the Act, intituled, *An Act, &c., (insert the title of this Act.)*"

XLVII. The said Commissioners shall receive for their services under this Act, and for their necessary expenses and disbursements, such compensation as shall be allowed to them respectively by the Governor, and no other fees or emoluments whatsoever.

XLVIII. It shall be the duty of each of the said Commissioners to draw up a Schedule in tabular form in triplicate, of all lands held *en roture* in each Seignior within the territorial limits (*arrondissement*) which shall be specially assigned to him for that purpose by the Governor, exhibiting the price at which the Seigniorial rights with which each of the said lands is charged, may be redeemed, shewing in each *arrière fief* the portion of the said price to which the Seignior of whom such fief is held, is entitled; distinguishing the price of redemption of the annual rights and charges from that of the right of banality, and from that of the casual rights, and describing each land by the number which it bears in the land-roll (*papier-terrier*), or on the plan of such Seignior, or if there be no such land-roll or numbered plan, then by the name of the actual occupier, or if the land be not occupied, then in any other manner he shall deem expedient.

XLIX. In order to determine the price at which each land may be freed from the said Seigniorial rights, each of the said Commissioners shall observe the following rules, namely:

1. To establish the price of redemption of the annual rents, (*redevances*), a valuation shall be made of the total

annual amount derived from the charges upon the land, and the said amount shall represent the interest at six per cent. of the capital sum which shall be the price of redemption.

- 5 2. To establish the price of redemption of the rents (*redevances*) payable in grain, fowls or other provisions or fruits of the earth, an average year of their value shall be computed according to the price of articles of the same nature, taken from the books of the merchants nearest to the place, or ascertained in any other manner; to establish such average year, the fourteen years immediately preceding the period at which the valuation is made, shall be taken, the two highest and the two lowest shall be struck out, and the average year shall be established on the ten remaining years; the value of personal labour, (*corvées*), shall be estimated in the same manner; but the price of redemption shall in no case be calculated at a higher rate than two pence per annum for each superficial arpent of the land subject to such annual charges, unless the said land be a town or village lot, or situate in the *banlieue* of a town or city.

3. To establish the price of redemption of the right of banality, an estimate shall be made of the decrease in the annual receipts of the banal mills to arise from the suppression of the right of banality and from the inhabitants being freed therefrom; the amount of the said estimate shall represent the interest at six per cent. of the capital which shall be the price of redemption of the banality for the whole of the Seigniorie, and the said capital shall be apportioned among all the lands subject thereto, according to their superficial extent.

4. In order to establish the price of the redemption of the casual rights, an average year shall be computed of their value in each Seigniorie upon the ten years immediately preceding the passing of this Act, and the amount of the valuation of the said average year shall represent the interest at six per cent. of the capital sum to be paid as the price of redemption of the said casual rights for the whole of the Seigniorie; and the said Capital shall be apportioned among all the lands, according to their value, which value shall be determined by the assessment or valuation roll of the municipality in which each land is situate, or in the absence

of such assessment-roll, in such other manner as the Commissioner shall deem expedient to adopt.

5. And in order to establish the share to which a Seigneur *dominant* is entitled in respect of any *arrière-fief*, the Commissioner shall estimate the value of the domain *direct* of the Seigneur *dominant* in and upon such *arrière-fief*, and shall make an apportionment of the amount thereof upon all the lands situate in such *arrière-fief* according to their value.

L. When the price of redemption of the Seigniorial rights on one or several lands shall have been fixed by a Notarial deed of agreement *Acte d'accord* between a Seigneur and one or several censitaires, and an authenticated copy of such deed of agreement shall have been deposited in the hands of the Commissioner, the said Commissioner shall enter the said price upon the Schedule of the said Seignior, and shall write in the margin, opposite thereto, the words *Acte d'accord*.

LI. Before beginning to prepare the Schedule for any Seignior, the Commissioner entrusted with that duty, shall give public notice of the place, day and hour, at and on which he will begin his inquiry; and all such notices shall be made by publications in the English and French languages, at the door of every parish Church situated in such Seignior, during two consecutive Sunday days at the conclusion of divine service in the forenoon, or by placards in both languages, posted during a fortnight in the most frequented place of any parish or settlement, in which there shall be no church.

LII. It shall be lawful for each of the said Commissioners to enter upon all lands situated in the Seignior, the Schedule whereof is to be made by him, in order to make such examination thereof as may be necessary and useful to assist him in establishing the price of redemption of the Seigniorial rights due thereon without his being subject in respect thereof to any obstruction or prosecution.

LIII. The said Commissioners and each of them separately, shall have full power and authority to examine on oath any person who shall appear before them either as a party interested or a witness, and to summon before them all persons whom they may deem it expedient to

examine upon the matters subject to their consideration, and the facts which they may require to ascertain in order to carry this Act into effect, and to require any such person to bring with him and produce before them any Book, Paper or Document necessary for the purposes of this Act; and if any person so summoned shall refuse or neglect to appear before them or before the Commissioner who shall have summoned him, or appearing shall refuse to answer any lawful question put to him, or to produce any Book, Paper, Plan, Instrument, Document, or thing whatsoever which may be in his possession, and which he shall have been required, by such summons, to bring with him or to produce, the said Commissioners, or such one of them as shall have issued the summons, may order the said person, if not present, to be apprehended and brought before him or them, and may in his or their discretion commit such person to the Common Gaol of the District, for a period not exceeding one calendar month.

- LIV. Whenever the Commissioner charged with the making of the Schedule of a Seignior shall be of opinion that the rules prescribed by this Act for determining the price at which each land may be released from Seigniorial rights, do not form an equitable basis for the valuation of such rights in such Seignior, or when the Seignior, or not less than twelve censitaires of the said Seignior, shall call upon the said Commissioner in writing, within a period not exceeding eight days from the day fixed for the commencement of the investigation by the Commissioner, to appoint *experts* to determine the price of redemption of the said Seigniorial rights, the said Commissioner shall call a public meeting of the proprietors of the locality on such day and at such hour as shall be specified in the public notice thereof which he shall give in the manner prescribed by this Act for the commencement of his investigation, for the purpose of appointing and electing two *experts*, one of whom shall be appointed by the Seignior and the other shall be elected by the majority of the Censitaires present at such meeting; and in case the Seignior shall not be present at the said meeting, or being present, shall refuse or neglect to appoint an *expert*, the said Commissioner shall appoint one to represent the Seignior, and such *expert* shall

have the same powers as he would have had if he had been appointed by the Seigneur.

2. The two *experts* so appointed and elected shall have and exercise the same powers with respect to the valuation of the Seigniorial rights as could be exercised by the Commissioner himself, and the sum which shall be established by the said *experts* as the price of the redemption of the rights due upon each land, shall be entered in the schedule by the Commissioner; but in case the two *experts* shall not agree as to the price of redemption of the said rights, the Commissioner shall *ex-officio* intervene as umpire (*tiers-expert*), and in such case the valuation by him made of the said rights shall be entered in the said schedule as the price at which they shall be redeemed; and the Commissioner shall enter in the margin opposite to the said price the word "*expertise*."

3. Provided that when the Seigneur and the *Censitaires* shall agree to appoint and elect, or shall appoint and elect one and the same *expert*, such sole *expert* shall have the same powers as the two *experts* would have had, and his decision shall be final.

4. In the event of one of the said *experts* dying, becoming incapacitated, or refusing to act, the appointment or election of another in his stead shall be proceeded with in the manner above prescribed, excepting that it shall not be necessary to call a public meeting of the *Censitaires* for the appointment of an *expert* in the stead of the person representing the Seigneur; but if the Seigneur shall refuse or neglect during eight days to appoint another *expert*, after having been required so to do by the Commissioner, the Commissioner shall appoint an *expert* to represent the said Seigneur.

5. The said *experts* shall be entitled to receive out of the funds provided by this Act, such fees as the Commissioner shall deem proper to tax, provided that they shall not exceed the sum of fifteen shillings for each day of necessary attendance. And the said fees shall be paid by the Receiver General, or by any other person by him appointed for that purpose, upon the certificate of the Commissioner.

LV. Each of the said Commissioners, immediately after the completion of the Schedule of a Seignior, shall give public notice in the manner prescribed by the fifty-first section of this Act, that such Schedule will remain open for the inspection of the Seignior and the Censitaires of the Seignior during the fifteen days following the said notice; and it shall be lawful for every such Commissioner to correct any error and to supply any omission which may be pointed out to him by any of them, or which shall come to his knowledge in any other manner.

2. It shall be lawful for the proprietor of any Seignior to appear either in person or by his agent, before the said Commissioner, for the purpose of having any error corrected which may have crept into the said Schedule; and for the like purpose it shall be lawful for the Censitaires of any Seignior to appoint a trustee to represent them before the said Commissioner; and such trustee shall be appointed by a majority of the Censitaires of such Seignior present at a meeting called for that purpose, public notice thereof having been previously given in the manner prescribed in the fifty-first section of this Act, by at least three of the Censitaires thereof.

LVI. As soon as the Schedule of a Seignior shall be completed in the manner hereinbefore provided, the Commissioner who shall have made it shall transmit a triplicate thereof to the Receiver-General of this Province; he shall deposit another triplicate in the office of the Superior Court in the District in which the Seignior is situate, or if such Seignior be situate in two Districts, then in the office of the said Court in either of such Districts; and shall retain the other triplicate in his hands until it shall be otherwise provided by law; and he shall give public notice of his having so deposited the same, in the terms of the form B annexed to this Act, or in other terms of like import, in the English and French languages, in the *Canada Gazette* or other newspaper recognized as the Official Gazette of the Province, and in at least one other newspaper published in the District in which such Seignior is situate, or if there be no newspaper published in the District in which such Seignior is situate, such notice shall be so published in the nearest District wherein one or more newspapers are published. And the Clerk of the said Court shall be re-

quired to furnish a copy of such Schedule duly certified in the usual form, to any person asking for the same, and he shall be entitled to demand three-pence currency for every hundred words of such document.

PARTIAL COMMUTATION.

LVII. It shall be lawful for the owner of any land held *en fief*, so soon as the Schedule for the Seigniorial rights in which such land is situate shall be completed and deposited as aforesaid, to redeem all the Seigniorial rights to which such land is subject, at the rate specified in such Schedule, without interest, if such redemption be effected within two years from the day of the deposit of the said schedule, and by adding thereto interest calculated at the rate of six per cent. per annum on the price at which the casual rights may be redeemed, from the day of the date of the said deposit, if the redemption only takes place after the expiration of two years from the day of such deposit; but no proprietor shall, in order to effect such redemption, be required to pay the said interest for a period exceeding ten years; and such redemption shall be made in some one of the modes hereinafter provided, but not otherwise.

LVIII. It shall be lawful for any such owner to pay the price of such redemption in money, to the Receiver-General of the Province, or such officer as shall be appointed by him to receive the same, who shall give and deliver to the said proprietor, or to his duly authorized agent, a receipt and certificate, drawn up in the terms of the form C, to this Act annexed, or in terms of like import: Provided always, that whenever the Seigniorial rights in which such land is situate, is entailed or held by a Tutor, Curator or usufructuary proprietor (*usufruitier*) it shall not be lawful to redeem such rights in the manner provided by the present section, but in every such case the redemption shall be made in the manner provided by one or other of the two next following sections.

LIX. It shall be lawful for any such owner to effect a redemption of the said Seigniorial rights on paying to the said Receiver-General or his representative, that part of the said price of redemption, which represents the rights of the seignior dominant in and upon such *arrière-fief*, if the land charged with the rights which he is desirous of

redeeming, is situate in an *arrière-fief* held under any Seignior *dominant* other than the Crown; and in such case, the said Receiver-General or his representative shall give and deliver to such proprietor or to his agent a receipt and certificate in the terms of the form D, to this Act annexed, or in words of similar import; and from the day of the date of such receipt and certificate, the balance of the said price of redemption shall be *ipso facto* (*de plein droit*) converted into a constituted rent, (rente constituée) redeemable at any time, the interest whereof shall become due and payable each and every year to the Seignior of the Seignior in which such land is situate, at the same period as the annual rents (*redevances*) which it shall represent in part, until it shall be redeemed in full by the payment of the capital of the said rent.

LX. It shall be lawful for any such owner, if the land charged with the Seigniorial rights, which he is desirous of redeeming, is situate in a Seignior in which the Crown is the Seignior *dominant*, to redeem the same by making, either personally or by his agent, to the said Receiver-General or his Representative, a declaration of his desire to avail himself of this Act to redeem the said rights; and in such case, the said Receiver-General, or his representative, shall give and deliver to such proprietor or his agent, a certificate in the terms of the form E, to this Act annexed, or in words of like import, and, from the day of the date of the said certificate, inclusively, the price of redemption of the said rights shall be *ipso facto* (*de plein droit*) converted into a constituted rent, (rente constituée) redeemable at any time, the interest whereof shall become due and payable each and every year to the Seignior of the Seignior in which such land is situate, at the same period as the annual rents (*redevances*) which it represents, until it shall be redeemed by the payment of the capital of the said rent.

LXI. Whenever, after the drawing up of a Schedule, any land whatsoever indicated in such Schedule shall be subdivided, it shall be lawful for the Receiver General or his representative, to receive the price of redemption of the Seigniorial rights on any portion thereof, and to grant a certificate thereof, when the said price of redemption of the Seigniorial rights on such portion shall have been established by a Deed of Agreement or other au-

thentic document executed between all the proprietors of the land, and a copy whereof shall have been deposited in the hands of the said Receiver General or his representative.

LXII. It shall be lawful for the Receiver General or his representative, to grant a certificate in the terms of the form C annexed to this Act, or in words to the like effect, to any *censitaire* who shall produce a certificate signed by one of the said Commissioners, establishing the price of the redemption of the Seigniorial rights on the land which such *censitaire* is desirous of liberating from such rights, as fixed by a Deed of Agreement, and who shall pay to him at the same time the amount fixed by such Deed of Agreement; and also to any *censitaire* who shall produce a certificate signed by one of the said Commissioners, establishing the amount of the capital representing the annual rents of the land which the said *censitaire* is desirous of liberating from the Seigniorial rights, together with an additional one third, to represent the other Seigniorial rights, but the said Seignior or the said *censitaire*, as the case may be, shall be entitled to recover the difference which may exist between the said one third so paid and the price to be established thereafter by the said Commissioner, for the redemption of the said other Seigniorial rights.

LXIII. Every such land so liberated by the redemption of the said Seigniorial rights in any of the modes above provided, shall, from the day of the date of the receipt and certificate of the Receiver General, or of his representative, shewing that the Seigniorial rights with which the said land was charged have been redeemed, be held in *franc-aleu roturier*, and be thereafter liberated from all Seigniorial rights; but the Seignior of whom the said land was held, shall be maintained, during five years only, in his privileges and hypothecs on the land, for the payment of all arrears of Seigniorial rights which are not prescribed, and are lawfully due.

LXIV. It shall be lawful for the Receiver General, for the purposes of this Act, to appoint one or more persons to represent him in any part of Lower Canada, and such persons shall have the same powers for the said purposes as the Receiver General himself.

See Article 2, page 23

LXV. Every constituted rent (*rente constituée*) established by virtue of this Act, shall be redeemable at the option of the owner of the land by one payment, including all arrears which shall not be prescribed, in cases where the Seigneur has the right of alienating such rent; but if the Seignior be entailed (*substitué*), or held by a tutor, curator or usufructuary proprietor (*usufruitier*), the rent and arrears only shall be received, and the principal sum shall become payable only in the cases by law provided, or when the party to whom the rent is payable shall have power to alienate the Seignior wherein it may be due.

LXVI. All moneys arising from the redemption of Seigniorial rights under this Act, whether the same be paid as aforesaid to the Receiver-General, or remain as the principal of a constituted rent (*rente constituée*) or otherwise, (including interest) shall be held to be immoveable property by fiction of law, and deemed to be *propres*, belonging to any party to whom the Seignior in which such land is situate was *propre*, and shall accordingly be subject to investment, and being so invested *bonâ fide* with a proper declaration of *remploi*, shall be substituted for the rights they represent, and shall have the same destination as such rights would have had.

LXVII. Whenever any constituted rent (*rente constituée*) created under this Act shall be redeemed, the price of such redemption shall also be paid over to the said Receiver-General, and every such constituted rent (*rente constituée*) shall be considered in matters of succession, and in judicial proceedings, and to all other intents and purposes whatever, as being a territorial right (*droit foncier*) attached to the domain of the Seignior belonging to the Seigneur to whom it is payable, and shall not be liable to be transferred, seized, sold, alienated, hypothecated or mortgaged apart from the said Seignior, but shall form part of the same, and shall also be transferred, seized, sold, alienated, hypothecated, mortgaged and legally dealt with along with the said Seignior, shall have the same privilege *ex causâ* as the right of the *bailleur du fonds*, and the like preference over all other hypothecary claims affecting the land, as any Seigniorial dues upon or arising out of such land previous to the redemption of the said dues; but the creditor shall not have the right to exact more than five years' arrears of any such rent.

LXVIII. If, after the expiration of three months, from the day of the receipt of the price of redemption of the Seigniorial rights due or payable on any land whatsoever, the proprietor of the Seigniority in which such land is situate, produces to the Receiver-General a certificate, granted by the Clerk of the Superior Court for the District in which the Schedule relative to such Seigniority, or a triplicate thereof, is deposited, stating that there is no opposition to the payment of the said price of redemption, the said Receiver-General shall pay to the said Seignior on his giving a duplicate receipt therefor, the amount of the said price with interest thereon, at six per cent per annum to be computed from the date of the collection thereof.

LXIX. Every proprietor of a Seigniority who shall have within his *mouvance* another or several fiefs, and every hypothecary creditor of the proprietor of any Seigniority the Schedule relative to which, or a triplicate thereof, shall be deposited in the office of the Clerk of the Superior Court in the District in which such Seigniority or part thereof is situate, must file an opposition to the distribution of all moneys arising, or which may arise from the redemption of the Seigniorial Rights in such Seigniority, for the preservation of their respective rights, and every such opposition shall be filed in the said office and have effect for thirty years; and if any such opposition be renewed within a less time than thirty years, the opposant shall only be entitled to the costs of one single opposition.

LXX. All minors, interdicted persons, *femes-covert*, even in the case of dower not yet open (*non encore ouvert*), and all who have entailed rights shall be also required, for the preservation of their rights, to file their oppositions to the distribution of all such moneys in the manner provided in the section immediately preceding the present, but tutors, curators, husbands or others who shall have neglected to file such oppositions shall, nevertheless, continue to be responsible towards the persons under their charge or authority for any loss which may result from their negligence in the said 40 behalf.

LXXI. Provided always, That at the expiration of each and every period of three years, to be reckoned

from the day of the date of the deposit of the Schedule of any Seignior, in the office of the Clerk of the Superior Court as aforesaid, any sum received during that period, notwithstanding it shall not amount to five hundred pounds, for the redemption of the Seigniorial rights of any Seignior, or the constituted rent (*rente constituée*) representing them, shall be transmitted by the Receiver General to the Clerk of the Superior Court as above directed; and that when the whole of the amount of the price of redemption of the Seigniorial rights of any Seignior or the constituted rent representing them as established by the Schedule thereof, shall have been paid to the Receiver General, notwithstanding a period of three years shall not have elapsed, and that the whole of the said price of redemption shall not amount to five hundred pounds, the sum so received shall be transmitted to the Clerk of the Superior Court, and be distributed in the same manner, as if the same amounted to five hundred pounds.

- 20 LXXII. So soon as and whenever the said Receiver-General shall have received, either by himself or by his representative, an amount equal to or exceeding the sum of *five hundred pounds* currency, for the redemption of the Seigniorial Rights in any Seignior whatsoever, or of the constituted rents which shall represent them, 25 the amount so received, together with interest at six per cent per annum from the date of the receipt of the sums respectively, forming such amount, shall be deposited by him in the hands of the Clerk of the Superior Court in 30 the District wherein the Schedule relative to the said Seignior, or a triplicate thereof, shall have been deposited in the office of the Clerk of the said Court; and the said Court shall make the distribution of the said moneys among the creditors, according to the order of 35 their hypothecs, and the preference of their respective privileges; but in every case, if the sums so received and deposited by the Receiver-General, or his representative, be for the price of the redemption of the Seigniorial Rights due upon the lands situate in an *arrière-fief* 40 the Seignior whereof is any other Seignior than the Crown, such Seignior *dominant* shall be entitled to receive by privilege and preference over all creditors of the Seignior holding of him, the proportion of the price of redemption representing the rights due to him in his 45 quality of Seignior *dominant*, save and except the rights

of the creditors of such Seigneur *dominant* in and over the share of such sums coming to him.

LXXIII. All persons holding in mortmain, corporations, tutors, curators and administrators possessing lands held *en roture*, persons holding entailed lands the tenure whereof may be commuted with advantage to those whom they represent, may effect such commutation by paying the entire price of the redemption of the Seigniorial Rights with which such lands are charged, out of the moneys of those whom they represent, or by validly binding those whom they represent to the payment of the constituted rent into which the balance shall be converted; provided the tutors, curators and usufructuary proprietors (*usufruitiers*) and holders of entailed lands, observe the formalities required by law in the alienation of the property of the persons whose rights shall be represented by them; but persons holding in mortmain, and corporations shall not be required to observe any other formality, in or before the redemption of the said rights, than those prescribed by this Act.

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LXXIV. And it shall be lawful for the several religious or ecclesiastical communities in Lower Canada, holding in mortmain Fiefs or Seigniories therein, to invest from time to time, as they shall see fit, in any lands or tenements in this Province, or in any public or private securities in the United Kingdom, or in this Province, which they shall deem the most advisable or advantageous to their respective communities, any sums of money that may accrue to them from any commutation made under this Act.

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GENERAL COMMUTATION.

LXXV. Whenever a petition stating that the majority of the *censitaires* of any Seignior are desirous of redeeming the seigniorial rights payable on the lands held by them *en roture* in such Seignior, shall be submitted to the Governor, it shall be lawful for the said Governor to order any Notary whom he shall be pleased to name for that purpose, to ascertain on the spot in such way as the said Notary shall deem fit, whether in fact the majority of the *censitaires* in such Seignior desire such redemption.

LXXVI. And it shall be lawful for the Notary thus named, to summon before him the Seigneur of such Sei-

should not be allowed to be

gniori, or his Agent, or any other person, and to require them to exhibit to him all plans, books, papers or documents, and to afford him all such information as he may consider needful for the due performance of the duties imposed on him by this Act. And any such person who shall refuse or neglect to exhibit such plans, books, papers or documents shall incur a penalty of Twenty Pounds Currency, recoverable with costs before any Court of competent jurisdiction, and payable one moiety to Her Majesty, and the other to the informant.

LXXVII. And as soon as the Secretary of the Province shall have received from the Notary so named a certificate setting forth, that in fact two thirds of the *censitaires*, proprietors of lands situated in such Seigniori, are desirous of redeeming the seigniorial rights payable on such lands, he shall publish in the English and French languages in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, a notice in the terms of the form F annexed to this Act, or in words of similar import, making known the conversion of the said seigniorial rights due upon each of the lands situated in such Seigniori, into constituted rent (*rente constitué*) equal in principal to the sum marked in the Schedule of such Seigniori, adding thereto the interest calculated at one per cent per annum on the price at which the casual rights are redeemable, from the day of the date of the deposit of such Schedule as provided by this Act, as the price at which the seigniorial rights due payable upon such land may be redeemed.

LXXVIII. And the Secretary of the Province, shall, immediately after the publication of such notice, transmit to the proprietor of the Seigniori in which the seigniorial rights shall be thus converted into constituted rents (*rentes constituées*), a copy of the Schedule of the said Seigniori duly certified by the Receiver-General of the Province; and from the day of the date of such notice inclusively, the said seigniorial dues shall be converted into constituted rents (*rentes constituées*) in the same manner as if each of the *censitaires*, proprietors of lands in such Seigniori, had received a Certificate from the Receiver General as provided by the sixtieth section of this Act, and the Seignior shall continue to receive the interest due upon all such constituted rents until they be redeemed.

INDEMNITY TO SEIGNIORS.

LXXIX. And whereas some of the powers formerly vested in the Governor and Intendant of New France, under the laws promulgated by the Kings of France, for the purpose of restraining all undue pretensions on the part of Seigniors, have not been exercised since the cession of the country; and whereas differences of opinion have existed in Lower Canada, and conflicting decisions have been pronounced by the tribunals established since that time in reference to the character and extent of various Seigniorial rights; and whereas while it is the duty of the Legislature to restore to persons continuing to hold lands *en roture*, (in so far as present circumstances will permit) the rights and immunities secured to them by law, as interpreted and administered at the last mentioned period, it is at the same time just that Seigniors who have enjoyed lucrative privileges, of which they will in future be deprived by this Act, notwithstanding the enjoyment of such privileges may have been sanctioned by the said tribunals since they ceased to exercise the aforesaid powers, should be indemnified for the losses they will suffer from the manner in which the rights to be hereafter exercised by Seigniors are defined by this Act. Be it therefore enacted, That it shall be lawful for any Seignior to lay before the said Commissioners, a statement in detail of the amount of loss sustained or thereafter to be sustained by him, by reason of his having been curtailed, limited or restrained by this Act, in the exercise of any lucrative privilege, or in the receipt of any rents or profits which as such Seignior he would have been entitled to exercise or receive before the passing of this Act.

LXXX. Every such statement shall be filed in the Office of the Commissioner for the *arrondissement* in which the Seignory in relation to which the Seignior claims to have sustained loss is situated, and shall be addressed to the said Commissioners, in the form of a Petition, in duplicate, intitled, "Petition for Indemnity," and praying the said Commissioners to determine the amount of indemnity to which the Petitioner is entitled under the authority of this Act.

LXXXI. And it shall be the duty of the said Commissioner to receive such statement or petition, and to trans-

mit, without delay, one duplicate thereof to the Secretary of the Province for the time being.

LXXXII. It shall be the duty of the said Commissioners to meet together for the purpose of taking all or any such petitions into consideration, at such times and places as they shall appoint, and as shall have been publicly made known by notices in the English and French languages, inserted in the *Canada Gazette*, or other newspaper recognized as the Official Gazette of the Province, and at least one other newspaper published in the District in which the Seigniories to which such petitions relate are situate, or if there be no newspaper published in such District, in the nearest District in which one or more such newspapers are published.

LXXXIII. In all cases in which the interests of the Crown may require it, it shall be lawful for the Attorney General or Solicitor General of Lower Canada, or other Counsel duly authorized, to represent and appear on behalf of Her Majesty, Her Heirs and Successors, before such Commissioners, and to oppose the prayer of any such petition.

LXXXIV. The said Commissioners after hearing the Petitioners, either in person or by Attorney, and having examined the evidence adduced in relation to their claims, shall pronounce their judgment thereon in writing, and every such judgment shall contain the grounds thereof.

LXXXV. An appeal from the judgment of the said Commissioners may, within two months of the rendering of any such judgment, be made either by the Seignior or by the Crown, to the Court of Queen's Bench for Lower Canada; and from that Court to Her Majesty in Privy Council, whenever the indemnity claimed by such Seignior amounts to five hundred pounds sterling.

LXXXVI. The said Commissioners and the Courts which shall hear any such petition in appeal, shall reject every demand for indemnity based on the privilege granted by this Act, to persons possessing lands *en roture* to free them from that tenure by the redemption of the dues with which they are charged, and shall establish the amount of indemnity due to the petitioner only upon the difference existing between the manner in which the

rights hereafter to be exercised by the Seignior are defined by this Act, and that by which the rights they exercised before the passing of this Act would have been interpreted if this Act had not been passed.

LXXXVII. Every Judge who shall have presented a petition for indemnity in his own behalf, in virtue of this Act, shall be liable to recusation in every case in appeal from the judgment rendered by the said Commissioners upon any such petition; and every Judge who shall have sat in appeal from any one of such judgments, shall be deemed to have renounced all right to present any such petition in his own behalf.

LXXXVIII. So soon as the amount to be awarded to any Seignior who has petitioned as aforesaid, shall be established by the judgment of the said Commissioners, it shall be the duty of the Receiver General, at the expiration of the above delay of two months, on the production of a duly authenticated copy of such judgment of the Commissioners, accompanied by a certificate from the said Commissioners, that no appeal from such judgment has been brought therefrom within that delay, and in case of appeal, on the production of the final judgment of such Court, to pay to the said Seignior the amount of the said judgment, except in the cases provided for by the next clause of this Act.

LXXXIX. Whenever any opposition shall have been filed in the office of the Superior Court, in the manner prescribed by this Act, the amount of indemnity due to the Seignior shall not be paid to him, but the Receiver-General shall transmit it to the Sheriff of the District in which such office is situate, and it shall be the duty of such Sheriff to retain the monies thus transmitted to him, in the manner prescribed by this Act, for the distribution of the funds arising from the redemption of the Seigniorial dues and the constituted rents, (*rentes constituées*) established by virtue of this Act.

XC. And be it enacted, That the emoluments and disbursements of the Commissioners who shall be appointed under this Act, with the expenses to be incurred and the sums which may be awarded to Seigniors for indemnity under the authority thereof, shall be paid out of the Consolidated Revenue Fund of this

Province, by warrant of the Governor: and it shall be lawful for the Governor in Council to cause a sum or sums not exceeding in the whole the sum required for defraying the expenditure authorized by this Act, to be raised by Debentures to be issued on the credit of the said Consolidated Revenue Fund, in such form, bearing such rate of interest, and the principal and interest whereof shall be payable out of the said Fund, at such times and places as the Governor in Council shall think most advantageous for the public interest: and the monies so raised as aforesaid shall make part of the said Consolidated Revenue Fund of this Province.

XCI. And be it enacted, That the monies arising from the following Lower Canadian sources of Revenue, shall be and are hereby specially appropriated to make good to the said Consolidated Revenue Fund, the amount which may be taken out of the same for the purpose of paying the principal and interest of the Debentures mentioned in the next preceding section; that is to say:

20 All monies belonging to the Province and arising from *Quint* and other dues which are now, or hereafter shall become payable to the Crown, in or upon the Seigniories in Lower Canada, of which the Crown is Seignior Dominant, as well as from all arrears of such dues:

25 All monies arising from the Revenues of the Seignior of Lauzon, or from the sale of any part of the said Seignior which may hereafter be sold, and all arrears of such Revenues:

30 All monies arising from Auction Duties and Auctioneers' Licenses in Lower Canada:

All monies arising in Lower Canada, from licenses to sell spirituous, vinous or fermented liquors by retail in places other than places of Public Entertainment, commonly called Shop or Store Licenses:

35 2. And separate accounts shall be kept of all monies arising from the sources of Revenue aforesaid, (allowing interest at the same rate as shall be chargeable on the said Debentures, on any surplus of such monies which may be at any time in the hands of the Receiver General and not required to pay the interest or principal of such Debentures as aforesaid,) to the end that if the sums

payable out of the Consolidated Revenue Fund for the principal and interest of the Debentures mentioned in the next preceding section, shall exceed in the whole the total amount of the sums arising from the sources of Revenue so specially appropriated, and any interest allowed thereon as aforesaid, a sum equal to such excess may be appropriated by Parliament for some local purpose or purposes in Upper Canada.

INTERPRETATION.

XCH. And, for the interpretation of this Act—Be it enacted, That nothing in this Act contained shall 10 extend or apply to any Seigniority held of the Crown, nor to any Seigniority of the late Order of Jesuits, nor to any Seigniority held by the Ecclesiastics of the Seminary of St. Sulpice, nor to either of the Fiefs Nazareth, Saint Augustin and Saint Joseph in the City and County 15 of Montreal, nor to any Seigniority held in trust by the Crown for the Indians, nor to any Seigniority held in trust by any person or Corporation for the Crown, nor to any wild and unconceded lands held *en franc aleu noble* and granted under and by virtue of the Act of the Parliament 20 of the late Province of Lower Canada, passed in the third year of the Reign of His late Majesty King George the Fourth, and intituled : *An Act for the relief of certain censitaires or grantees of La Salle, and others therein mentioned, possessing lands within the limits of the Township 25 of Sherrington*, nor to any of the lands held *en roture* in any of the said Fiefs and Seigniorities.

XCH. That nothing herein contained shall extend to arrears of seigniorial rents due before the passing of this Act ; nor shall give to any person whomsoever any 30 right of action for the recovery of money or other value paid by him or his predecessors in the form of rents or other seigniorial dues, or for the recovery of damages which he may pretend to claim for the privation of any right acknowledged by this Act, and whereof he may 35 have been deprived by reason of any stipulations made by him or by his predecessors with any Seigneur, unless he would have had such right of action if this Act had not been passed. And nothing in this Act contained shall affect nor be construed to affect any lease of a mill, mill-site or water power leased by any Seigneur after having 40 been constructed, improved, acquired or reserved by

such Seigneur for his own use, or after having been erected under any lease of improvement or bargain, on any land reserved by or belonging to such Seigneur, nor any land conceded by any Seigneur after having been cultivated or otherwise improved by him, acquired or dismembered from the domain reserved and set apart for his private use.

XCIV. The word Seignior, wherever it occurs in this Act, shall be construed as meaning any part of a Fief, *arrière-fief* or Seignior held by a single individual, or by a Corporation, or held by several persons in common (*par indivis*) as well as the whole of a Fief, *arrière-fief*, or Seignior, except in such parts of this Act, in which the words "*arrière-fief*" and "*Seignior*" are made use of to distinguish the Fief dominant from the fief servant; and the word "Seignior" shall be construed as meaning any Corporation, or any sole proprietor, and all persons who are proprietors, in common (*par indivis*) of any part of a Fief, *arrière-fief* or Seignior, as well as any person or Corporation, being sole proprietor, and all persons, proprietors jointly and *par indivis* of the whole of any such Fief, *arrière-fief*, or Seignior; and the words "Seigniorial Rights," whenever they occur in this Act, shall include and be construed as including all rights, duties, charges, obligations, and Seigniorial or feudal dues whatsoever.

XCV. The words "wild lands" or "wild land" wherever they occur in this Act, shall be construed to apply not only to all wood land or lands otherwise in their natural state, but also to all land in part settled or cleared, or otherwise improved by any other person than the Seigneur of the *censive* within which such land shall lie, if such land so settled, or in part cleared or improved, be not yet conceded.

XCVI. The "Interpretation Act" shall apply to this Act.

XCVII. This Act shall be known, cited and referred to as "The Seigniorial Act of 1853."

40 XCVIII. This Act shall apply to Lower Canada only.

Form A.

Before the undersigned, Public Notaries, for Lower
Canada, residing in the Parish of _____ in the
District of _____ (or

Before the undersigned, Public Notary, &c. &c. and the
hereinafter named witnesses,) came and appeared A. B.,
Seignior of (*insert the name of the Seignior*) who hath
by these presents granted, conceded, transferred and
made over henceforth and for ever, and hath promised and
doth hereby promise to guarantee from all disturbances,
gifts, dowers, debts, hypothecs, ejectments, substitu-
tions, alienations and all other hindrances whatsoever, to
residing in _____

hereunto present and accepting as grantee for himself, his
heirs and assigns, to wit: A lot of land lying and situate
(*insert here the description and boundaries of the land*
granted) as the whole now stands, and with which the
said grantee acknowledges himself to be well acquainted,
and declares himself content and satisfied.

The present concession being made on condition that
the said grantee shall cause the said lot of land so granted
to be surveyed and bounded at his own expense, shall
cause at least five arpents thereof in superficies to be
cleared and brought into a state of cultivation, within five
years from the date hereof,—and shall pay annually on the
first day of February, in each year, at the place appointed
for the collection of rents in the said Seignior, to the
said A. B. or his Agent, duly authorized, an annual rent
of _____ pence, currency, for every superficial
arpent of the said lot of land so granted, to wit: the sum
of _____ for the said _____ arpents of land
so granted; which said rent is hereby established on the
said lot of land as a constituted rent, (*rente constituée*),
and shall continue to be paid as aforesaid, until the capital
thereof amounting to the sum of _____ currency,
is paid in full, and by one single payment. And for security
thereof, the said grantee doth henceforth specially oblige,
bind and hypothecate the said lot of land.

By means whereof the said Seignior doth make over to
the said grantee all and every right of property and all
other rights generally whatsoever which he may have in
and upon the said lot of land so granted, being willing

and consenting that the said grantee shall enjoy, make use and dispose of the same as he shall deem fit, as sole proprietor thereof, *en franc-aleu roturier*, henceforth and for ever, by virtue of these presents.

And for the execution of these presents, the said parties have elected their domiciles, &c., where, &c., for thus, &c.

Done and passed in, &c.

Form B.

Public notice is hereby given that the Schedule (of the *fief*, *arrière-fief*, or of the *Seignior*) of (name of *fief* or *Seignior*) shewing the prices at which the various feudal and Seigniorial rights, dues, charges, obligations and rents due and payable upon each land in such (*fief*, *arrière-fief* or *Seignior*) are redeemable, is completed, and that a triplicate thereof has been deposited in the office of the Receiver-General, and another in the office of the Superior Court in the District of and that the third remains in the possession of the undersigned.

(Here give the name of the locality in which the Commissioner is sitting, and the date)

A.B.	}	Commissioner of commutation for the Commutation Division No.
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Form C.

I do hereby certify that A. B. proprietor of (name of the land freed) hath this day paid to me the sum of being the price of the redemption of the said land from all feudal and Seigniorial rights, dues, charges, obligations and rents to which the said land was subject, as shewn in the Schedule relating to the (*fief*, *arrière-fief* or *Seignior*) of adding thereto the interest at six per cent upon the price of redemption of the casual rights, (if interest

Act of 1853," such land is from this day henceforth and forever released from all such feudal and Seigniorial rights, dues, charges, obligations and rents, save and except any arrears thereof now due on the same.

Made in duplicate at
day of 18 .

this

5

F. H. Receiver-General.
or I. J. Agent of the Receiver-General.

Form D.

I do hereby certify that A. B., proprietor of
(*name of land freed*,) did this day pay to me the sum of
being that part of the price of redemption
from the feudal and Seigniorial rights, dues, charges,
obligations and rents, to which the said land was 10
subject, which represents the rights of the Seignior of
whom the said *arrière-fief* is held, as shewn by the Sche-
dule relating to the (*fief, arrière-fief* or Seignior of.)
That under "The Seigniorial Act of 1853," the balance
of the said price of redemption, equal to the sum of 15
currency, including the interest upon the price of the
redemption of the casual rights (*if any such interest be*
payable under the Act,) will form the principal of a
rente constituée, redeemable at all times in the man-
ner provided by the said Act, and that henceforth the 20
said land is freed from all such feudal and Seigniorial
rights, dues, charges, obligations and rents, save and
except any arrears thereof now due on the same.

Made in duplicate, at
day of

the

18

F. H. Receiver-General.
or I. J. Agent of the Receiver-General.

Form E.

I do hereby certify that A. B., proprietor of
 (name of the land freed,) has declared personally (or
 by his agent C. D.) to me that he is desirous of availing
 himself of "The Seigniorial Act of 1853," to free the said
 from all feudal and Seigniorial rights,
 dues, charges and rents whatsoever; that in virtue of
 the said Act, the said is from the date here-
 of freed from all such feudal and Seigniorial rights;
 and that the price of redemption of the said Seigniorial
 rights, amounting to the sum of currency, inclu-
 ding interest due on the casual rights, (if such interest
 be payable under the Act,) is from the date hereof con-
 verted into a redeemable constituted rent (*rente consti-
 tuée*.)

F. H.

Receiver-General.

or I. J. Agent of the Receiver-General.

Date.

Form F.

SECRETARY'S OFFICE.

(Date)

Whereas the undersigned hath received from (name of
 Notary,) the Notary duly appointed under the seventy-
 fifth section of "The Seigniorial Act of 1853," a certificate
 setting forth that in fact two thirds of the *centitaires* or
 owners of land in the said Seigniory, are desirous of re-
 deemming the Seigniorial rights with which the said lands
 are charged,—

NOTICE

Is hereby given that the said Seigniorial rights, upon
 each of the lands situated in the said Seigniory of
 are on, from and after this day converted into
 a constituted rent (*rente constituée*), equal in principal to

the sum marked in the Schedule of the said Seignior, adding thereto interest at one per cent per annum, on the price of redemption of the casual rights, from the day of the date of the deposit of the said Schedule unto this day (*if interest is payable under the Act,*) made in conformity to the said Act, and filed in the office of the Prothonotary of the said District, as the price at which the Seigniorial dues, payable upon the said lands respectively, may be redeemed.

A. N. M.
Provincial Secretary.

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